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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,966	01/18/2002	Mu-III Lim	CP-1230	3345

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EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT PAPER NUMBER

1615

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,966

Applicant(s)

LIM ET AL.

Examiner

Lakshmi S. Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-9 and 11-24 is/are pending in the application.
- 4a) Of the above claim(s) 11-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt of RCE, amendment and remarks dated 2-1-06 is acknowledged.

Claims 1-3, 7-9 and 11-24 are pending. Claims 11-24 are withdrawn as being non-elected.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2-1-06 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohtaka et al (hereafter Ohtaka, Chemical and Pharmaceutical Bulletin).

Ohtaka teaches benzylpiperazine derivatives and their synthesis (abstract), wherein the structure of the compounds are shown in formula I. Among the several variables, Ohtaka describes that R₂ can be 2,4-(methoxy)₂C₆H₃. Instant claimed formula I requires two hydroxy groups on the benzene ring whereas Ohtaka teaches

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methoxy. With respect to the R1 and R2 variables of the instant claims, Ohtaka teaches a piperazine ring that is substituted and hence meet the claimed limitation that R1 and R2 form a substituted or an unsubstituted ring structure having one additional heteroatom selected from N, S and O. Ohtaka differs from the instant claims in the methoxy groups on the benzene ring. However, the methoxy groups form the next obvious homologs of the claimed hydroxy groups and accordingly, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to use hydroxy or methoxy groups on the benzene ring of Ohtaka with an expectation to achieve a compound with the same property i.e., cerebral vasodilating activity. Instant claims are directed to a compound and a process of making and do not recite the activity.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohtaka et al (hereafter Ohtaka, Chemical and Pharmaceutical Bulletin) in view of 4,888,283 to Bertini et al (Bertini).

Bertini teaches compounds having the general formula I (col. 3) in which the variables R1 and R2 can be hydrogen, hydroxyl or alkoxyl etc, variables R3, R4 and R5 are hydrogen or alkyl etc. Thus, it is possible that any two of R1-R5 were to be hydroxyl groups, thus resulting in a benzene diol compounds. Particularly, Bertini suggests that for compounds of formula I containing hydroxyl groups at R1 and R2 positions, the synthesis steps comprise preparing benzaldehyde from benzene, transforming the benzaldehyde to oximes and reducing finally to benzylamino compounds (Col. 4, lines

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1-25 and example 1). Thus, Bertini teaches preparing compounds with alkoxy groups on the ring instead of the claimed hydroxyl groups. However, Bertini teaches a general method of preparing compounds with OH groups and even the claimed compounds differ from that taught by Bertini (example 1 compound) only in the absence of alkoxy groups, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to prepare the OH or methoxy containing benzene derivatives of formula 1 in Ohtaka employing the synthesis steps preparing benzaldehyde, transforming to oximes and reducing to benzylamino compounds because Bertini suggests that preparing the compounds by the above process is advantageous and easily carried out.

Response to Arguments

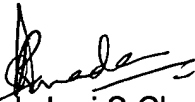
Applicant's arguments with respect to claims 1-3 and 7-9 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 7.30 AM -4.00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lakshmi S Channavajjala
Examiner
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April 14, 2006